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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,853	12/16/2003	Gregory S. Spencer	SC12765TP P01	6907
23125	7590	10/08/2004	EXAMINER	
FREESCALE SEMICONDUCTOR, INC. LAW DEPARTMENT 7700 WEST PARMER LANE MD:TX32/PL02 AUSTIN, TX 78729			THAI, LUAN C	
			ART UNIT	PAPER NUMBER
			2829	

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/736,853	Applicant(s) SPENCER ET AL.	
	Examiner Luan Thai	Art Unit 2829	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/16/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The Information disclosure Statement filed on 01/19/99 has been considered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zheng et al. (U.S. Publication No. 2004/0101633).

The figures and reference numbers referred to in this office action are used merely to indicate an example of a specific teaching and are not to be taken as limiting.

Regarding claims 1-22, Zheng et al. teach (see specifically figures 3, 4A-4C, 5, 6A-6G) a method comprising: forming a dielectric overlying a substrate of a wafer, wherein the forming the dielectric further comprises: forming a low K dielectric layer (314/518) having a thickness between about 5,000-10,000 Angstroms ([paragraph [0052] and [0059]) overlying the substrate (300/500) by a chemical vapor deposition (CVD) process using a silicon precursor including a OctaMethylcycloTetrasiloxane (OMCTS) material or a TetraMethylcycloTetrasiloxane (TMCTS) material (paragraph [0023]-[0024] and Zheng et al.'s claims 5, 20, and 24) at about 4-10 Torr (Zheng et al.'s claim

15), wherein a dielectric constant of the low K dielectric layer is 2.2 or less (paragraph [0021]), forming a second dielectric layer (316/519) overlying the low K dielectric layer (314/518), respectively, by a CVD process using the silicon precursor, wherein the hardness of the second dielectric layer is greater than the hardness of the low K dielectric layer (see Zheng et al.'s "Examples 1-2-3-4"), forming a void (317/516-520) in the dielectric including in the low K dielectric layer (314/518) and the second dielectric layer (316/519), depositing a conductive material (320/526) over the wafer including depositing the conductive material in the void; removing portions of the conductive material exterior to the void by polishing the wafer with a chemical mechanical polishing (CMP) process wherein the polishing removes at least some of the second dielectric layer (paragraph [0064]).

Although Zheng et al. do not specify the range of the dielectric constant of the low K dielectric layer (e.g., *less than 3*) in claims 1, 18, and 21, Zheng et al. does disclose the dielectric constant of the low K dielectric layer to be 2.2 or less (as described above) and being considered as to be in the claimed range. The ratio of the two reactants in claims 6, 8, 9, 18-22, could be optimized by the practitioner.

"Normally, it is to be expected that a change in temperature, or in concentration, or in both, would be an unpatentable modification. Under some circumstances, however, changes such as these may impart patentability to a process if the particular ranges claimed produce a new and unexpected result which is different in kind and not merely degree from the results of the prior art . . . such ranges are termed 'critical ranges' and the applicant has the burden of proving such criticality . . . More particularly, where the

general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation."

In re Aller 105 USPQ 233, 255 (CCPA 1955). See also In re Waite 77 USPQ 586 (CCPA 1948); In re Scherl 70 USPQ 204 (CCPA 1946); In re Irmischer 66 USPQ 314 (CCPA 1945); In re Norman 66 USPQ 308 (CCPA 1945); In re Swenson 56 USPQ 372 (CCPA 1942); In re Sola 25 USPQ 433 (CCPA 1935); In re Drevfus 24 USPQ 52 (CCPA 1934).

Note that the specification contains no disclosure of either the critical nature of the claimed ratio of any unexpected results arising there from. Where patentability is aid to be based upon particular chosen ratio or upon another variable recited in a claim, the Applicant must show that the chosen ratios are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQZd 1934, 1936 (Fed. Cir. 1990).

4. The following reference(s) is/are cited as of interest to this application:

U.S. Pat. No. 6,603,204 and 6,716,742 to Gates et al. and US Publication 2003/0129827 to Lee et al. are cited for showing the methods of depositing dielectric material in damascene applications.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan Thai whose telephone number is 571-272-1935. The examiner can normally be reached on 6:45 AM - 4:15 PM, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Tokar can be reached on 571-272-1812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Luan Thai', with a long, sweeping horizontal stroke extending to the right.

Luan Thai
Primary Examiner
Art Unit 2829
October 6, 2004